(1) (4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. No. 1968 **/2004**

PETITIONER

Jeevan Lal Dewangan
aged about 29 years
S/o Late Shri Mahesnram
Dewangan
R/o Village & Post
Vinayakpur
District-Durg (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through Secretary
Department of Energy
D.K.S. Bhawan,
Raipur (C.G.)

2. Chhattisgarh State
Electricity Board
Through ~~its Chairman~~ The Secretary
Dangania, Raipur (C.G.)

P.R. No. 1958/04
Presented by Shri Manish Upadhyay
dated 5-11-04
Amendment made as per the order of Hon'ble court dated 13-08-04
(Manish Upadhyay, Advocate)

27-08-04

PETITION U/S 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRITS OF MANDAMUS AND CERTIORARY ETC. AND OR FURTHER SUITABLE WRITS AND DIRECTIONS:-

1. **PARTICULRAS OF THE PETITIONER:-**

As stated above in the cause title.

Amendment made as per the order of Hon'ble court dated 31-03-04
13-09-04
(Manish Upadhyay, Advocate)

2. **PARTICULARS OF THE RESPONDENTS:**

As stated above in the cause title.

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5/11/04
Clerk to A.G. Bilaspur

3. **PARTICULARS OF THE ORDERS AGAINST WHICH THE PETITION IS BEING MADE:**

(1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. No. 1968 **/2004**

PETITIONER

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aged about 29 years
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VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through Secretary
Department of Energy
D.K.S. Bhawan,
Raipur (C.G.)

2. Chhattisgarh State
Electricity Board

3. **Madhya Pradesh Electricity Board,**
Through- Its Secretary Shakti Bhawan
Rampur, Jabalpur (M.P.).

4. **Union of India,**
Through- The Secretary Department/
Ministry of the Power, New Delhi.

PETITION U/S 226 OF THE CONS... AND CERTIORARY ETC. AND

1. **PARTICULRAS OF THE PETITIONER:**

As stated above in the cause title.

2. **PARTICULARS OF THE RESPONDENTS:**

As stated above in the cause title.

3. **PARTICULARS OF THE ORDERS AGAINST WHICH THE PETITION IS BEING MADE:**

P.R. No. 1958/04
Presented by Shri Manish Upadhyay
dated 8-11-04
Amendment made as per the order of the Hon'ble court dated 13-08-04
Attested (Manish Upadhyay, Advocate)

Attested
A.R. (S)

Amendment made as per the order of the Hon'ble court dated 31-03-04
Attested (Manish Upadhyay, Advocate)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.1968/ **सन्** **2004**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11-7-2006 Mr. Anand Pandey, counsel for the petitioner. Mr. A.S. Kachhawaha, Govt. Advocate for the State/respondent No.1. Mr. A.S. Gaharwar with Mr. Pawan Shrivastava, counsel for respondent No.2. Mr. Vivek Verma, counsel for respondent No.3. Mr. S.K. Beriwal, Central Govt. Counsel for respondent No.4. By this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for directing the respondent Board to give the petitioner appointment on compassionate ground and quashing the circular Annexure P-2, which is contrary to Articles 14 & 21 of the Constitution of India. The case of the petitioner is that the petitioner's father namely, Late Mahesh Ram Dewangan was working in the erstwhile MPEB, he died in harness on 27-11-1999 and at that time, he was working as Lineman at Gurur in Workshop Division, Bhilai-3, Durg. The petitioner, on the demise of his father, submitted an application to MPEB seeking employment in MPEB on compassionate ground. Copy of the application is Annexure P-4. The petitioner sent various communications and correspondences copies of which are Annexure P-5. The petitioner sent a legal notice on 30-7-2002. The petitioner filed W.P. No.2579/2002 in which on 26-3-2004 this Court directed the respondents to consideration the representation of the petitioner. Reply of respondent No.3 MPEB is that after bifurcation of the Electricity Board with effect from 15-11-2000 and as per the Central Government order dated 15-4-2001, assets, liabilities and employees have been	

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.1968/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

divided therefore, liability of the petitioner is upon CSEB, as such, the case has been duly forwarded to the Additional Secretary, CSEB, Raipur vide letter dated 22-1-2002 wherein the case of the petitioner is at serial No.67.

Reply of CSEB is that as per the policy for compassionate appointment dated 28-2-2004, dependants of those employees who died on or after 15-11-2000 are entitled for appointment on compassionate basis and before that CSEB is not liable for appointment.

I have heard learned counsel for the parties.

Father of the petitioner died in harness on 27-11-1999 while working as Lineman at Gurur in Workshop Division, Bhilai-3, Durg, and thereafter, as is evident from Annexure P-5, the petitioner moved an application for compassionate appointment on 13th December, 1999, the case was registered and the petitioner was not appointed, therefore, he made various communications to various authorities. However, in the mean time, MPEB was bifurcated with effect from 15-11-2000 and CSEB came into existence from that date. The case of the petitioner was transferred by MPEB to CSEB, as the father of the petitioner was working in the territorial jurisdiction of CSEB. When the petitioner's father died and the petitioner applied for compassionate appointment in the year 1999, the policy regarding compassionate appointment dated 30th January, 1997 was in force, as such, the case of the petitioner was to be considered in the light of the policy which was in force on the date of the death of the petitioner's father .e. the policy dated 30th January, 1997. However, the application of the petitioner could not be considered and in the mean time, CSEB came into existence w.e.f. 15-11-2000.

(पीछे देखिये)

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आदेश पत्रक

मामला क्रमांक W.P.1968/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Under sub-section (4) of Section 58 of the M.P. Reorganisation Act, 2000, the assets and liabilities and employees of undivided Board are to be distributed among MPEB and CSEB. Vide order dated 6th January, 2004, Government of India, Ministry of Power, issued an order in which it has been mentioned that representatives of both the States agreed in a meeting taken by the Secretary (Power) on 20th March, 2003, that the division of employees would be in line with policy adopted for division of employees of MP Government. In para 2, it has been mentioned that the matter has been considered and in partial modification of provisional order dated 12th April, 2001, so far as relating to the division of employees it has been decided finally to divide the posts and employees on the lines followed by DOPT for allocation of post and employees of the State Government of erstwhile Madhya Pradesh for making allocation of posts and persons to the successor Electricity Board of MPEB on the principle that posts relatable to territorial jurisdiction of a successor State may be allotted to respective States and similarly employees belonging to such sub State territorial cadres being allocated to concerned State and only dividing the remaining posts and employees between the two States, the Government of India has decided to appoint a 3 members State Advisory Committee to be headed by the same person who was the Chairman of SAC appointed by DOPT for Madhya Pradesh. Therefore, on this principle the employees of MPEB who were working in the territory of newly created Chhattisgarh are to be allocated to the successor Chhattisgarh State Electricity Board on the principle and line followed by DOPT for allocation of	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.1968/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित – 4 –	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

posts and employees of the State Government of erstwhile State of Madhya Pradesh.

The father of the petitioner was working at Bhilai, therefore, he was to be allocated to CSEB and since he was working in the territory of CSEB, as such the responsibility lies on the shoulders of CSEB to consider the case of the petitioner for compassionate appointment. That is why, MPEB transferred the case of the petitioner regarding compassionate appointment to CSEB, as mentioned in the reply of MPEB. Therefore, the petitioner's case was to be considered as per the policy dated 30th January, 1997 and any policy framed thereafter, i.e. the policies of 2004 or 2002 are not applicable in the case of the petitioner, as at the time of application of the petitioner and death of the father of the petitioner, the policy dated 30th January, 1997 was in existence, as such his application ought to have been considered on the basis of the said policy. Even the State of Chhattisgarh, which came into existence on 1-11-2000, has taken a decision that dependants of those employees, who died on or after 1-11-1997 and were working in the existing territory of Chhattisgarh, are entitled for compassionate appointment.

Accordingly, the petition of the petitioner is allowed and respondent No.2 CSEB is directed to consider the case of the petitioner for compassionate appointment in the light of the policy dated 30th January, 1997.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Soma

(पीछे देखिये)

18.7.06 18.7.06 19.7.06 6/7/06